



URBAN RENEWAL AGENCY AGENDA
Tuesday, September 06, 2016 - 5:45 PM
Council Chambers - 169 SW Coast Highway, Newport, Oregon 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

2. PUBLIC COMMENT

This is an opportunity for members of the audience to bring to the Council's attention any item not listed on the Agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

3. CONSENT CALENDAR

The consent calendar consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request

3.A. Approval of Minutes of the August 15, 2016 Meeting
[August 15, 2016.docx](#)

4. EXECUTIVE DIRECTOR'S REPORT

All matters requiring approval of the Urban Renewal Agency originating from the city manager and departments will be included in this section. This section will also include any status reports for the Urban Renewal Agency information.

4.A. Approval of a Memorandum of Understanding between the City of Newport, the Newport Urban Renewal Agency, and Landwaves for Acquisition of SE 50th Street and SE 62nd Street Rights-of-Way

[Executive Director Report and Recommendations -- MOU -- UR-City-Landwaves-Street Rights-of-Way.pdf](#)

[Agenda Summary](#)

[MOU with Landwaves Changes](#)

[Final Draft of MOU with Exhibit Map](#)

5. ADJOURNMENT

August 15, 2016
5:15 P.M.
Newport, Oregon

URBAN RENEWAL AGENCY MEETING

CALL TO ORDER AND ROLL CALL

The Urban Renewal Agency of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Allen, Engler, Saelens, Roumagoux, and Busby were present.

MOTION was made by Sawyer, seconded by Saelens, to excuse Swanson from tonight's meetings. The motion carried unanimously in a voice vote.

CONSENT CALENDAR

The consent calendar consisted of the following item:

1. Approval of June 20, 2016 minutes.

MOTION was made by Roumagoux, seconded by Sawyer, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

EXECUTIVE DIRECTOR'S REPORT

Preliminary Financials for the Fiscal Year Ending June 30, 2016. Nebel reported that Murzynsky has prepared a financial report for the Urban Renewal Agency for the fiscal year that ended on June 30, 2016. He stated that the primary activity in the Urban Renewal District relates to construction projects, most of which are funded through debt services. He added that actual expenditures are within the approved 2015/2016 appropriations, as are the debt service funds.

Murzynsky briefly reviewed the report.

ADJOURNMENT

Having no further business, the meeting adjourned at 5:25 P.M.

Margaret M. Hawker, City Recorder

David N. Allen, Chair

EXECUTIVE DIRECTOR REPORT AND RECOMMENDATIONS



Meeting Date: September 6, 2016

Agenda Item:

Approval of a Memorandum of Understanding between the City of Newport, the Newport Urban Renewal Agency, and Landwaves for Acquisition of SE 50th Street and SE 62nd Street Rights-of-Way

Background:

On August 15, 2016, the City Council held a work session to review a draft of a memorandum of understanding for proceeding with the acquisition of right-of-way from Landwaves for the future development of SE 50th Street and the extension of SE 62nd Street. It is also our intent to address the current portion of 50th Street that is developed that is located on an easement converting that to a formal right-of-way as well as part of this process.

The memorandum of understanding provides a framework to proceed with the acquisition of these rights-of-way. In addition, it addresses an encroachment for the Airport navigational aid, which was inadvertently constructed on Landwaves property a number of years ago. While this navigational aid is owned by the FAA, the city was responsible for providing the property to allow the FAA to build the navigational aids. The agreement provides for the conversion of the SE 50th Street easement to an 80-foot wide public road right-of-way without any monetary compensation associated for this conversion to Landwaves. For the future alignment of SE 50th Street and SE 62nd Street, the city will work with Landwaves to review existing wetland delineation reports to identify the location for the right-of-way. Once this property is identified, the property will be appraised with a value for acquisition determined at that time. The city will pay the appraised value for this property. The memorandum of understanding also provides that the city will provide an easement for a future industrial park sign along US Highway 101. Furthermore, the MOU provides that the city shall proceed to obtain a proper easement for the Airport navigational ray that is currently located on Landwaves property with the City, and paying the appraised value for a perpetual easement for this equipment. Landwaves has requested language indicating that the city will stabilize the hillside above the right-of-way on the westerly boundary of the Wastewater Treatment Plant to the extent a slide area requiring stabilization exists. It is the intent of the memorandum of understanding that the various rights-of-way easements are put in place by June 30, 2017.

This work is consistent with the Newport Transportation System Plan, which identified these two streets as critical elements of the city's overall transportation system, with the South Beach Urban Renewal Plan including funding for the acquisition of road rights-of-way associated with street projects identified in the plan. There have been several modifications to the draft memorandum of understanding since the August 15 work

session. These modifications are based on discussions with the Council, and comments from Landwaves. They have been incorporated into the Memorandum of Understanding that is attached for your consideration for approval.

Recommended Action:

I recommend that the Urban Renewal Agency consider the following motion.

I move the Urban Renewal Agency enter into a non-binding Memorandum of Understanding with Landwaves, Inc., for acquisition of the SE 50th Street and SE 62nd Street rights-of-way, and authorize the Urban Renewal Agency Chair to execute the agreement on behalf of the agency.

Fiscal Effects:

None directly by entering into the Memorandum of Understanding. Funding has been appropriated in the budget for the South Beach Urban Renewal District for rights-of-way acquisition.

Alternatives:

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel", is written over a light blue circular stamp.

Spencer R. Nebel



STAFF REPORT
URBAN RENEWAL
AGENDA ITEM

Title: Memorandum of Understanding Between the City of Newport, Newport Urban Renewal Agency, and Landwaves for acquisition of SE 50th St and SE 62nd St rights-of-way

Prepared by: Derrick I. Tokos, AICP, Community Development Director

Recommended Motion: I move that the Urban Renewal Agency enter into a non-binding Memorandum of Understanding with Landwaves, Inc. for acquisition of SE 50th Street and SE 62nd Street rights-of-way.

Background Information: The Newport Transportation System Plan, adopted in November of 2012 (the “Plan”), identifies the realignment of a portion of SE 50th Street and the extension of SE 62nd Street as critical elements of the City’s transportation system, and the South Beach Urban Renewal Plan includes funding for the acquisition of road right-of-way associated with street projects identified in the Plan.

The “as-travelled” portion of SE 50th Street is contained within an easement acquired by the City of Newport when it constructed the wastewater treatment plant. This stretch of roadway, the portion of SE 50th that is to be realigned, and the future extension of SE 62nd Street, pass through property owned by Landwaves, Inc. At this time, Landwaves is contemplating how best to position the property for industrial development, including certification through the State’s shovel ready industrial lands program. Getting the “as travelled” portion of SE 50th Street into a public road right-of-way and identifying the specific location for the realignment of SE 50th Street and the extension of SE 62nd Street provides Landwaves with needed access and a degree of certainty around which they can put together development plans. The City’s buildable lands inventory, last updated in 2012, demonstrated that the City lacks an adequate supply of developable industrial sites. Inadequate infrastructure is one of the principal reasons for this deficiency, and the City established, as a matter of policy, that it would work with property owners to overcome such obstacles, with urban renewal funds being identified as a potential source of funding (ref: Policy 7, Economy Section, Newport Comprehensive Plan). Obtaining these rights-of-way is consistent with this policy direction.

Both SE 50th and SE 62nd Street are identified in the Plan as collector roadways that, when constructed, will serve the broader public and provide an alternative north-south route to US 101. They are identified as part of the off-highway street network the City agreed to put in place as part of its negotiations with the State of Oregon to secure an alternate mobility standard for US 101. That mobility standard loosened restrictions on

the amount of vehicle trips new development could load onto the highway, to the benefit of South Beach property owners. By establishing a right-of-way alignment for these future roads, the City demonstrates that it is committed to getting this local street network in place.

An airport lighting array exists at the south end of the Landwaves industrial property, in the vicinity of where right-of-way for the extension of SE 62nd Street will tie into the “as travelled” segment of SE 62nd Street. The City does not currently have an easement over the lighting array and such an easement would be obtained concurrent with the dedication of the street right-of-way.

The acquisition of SE 62nd Street right-of-way was discussed as a potential project at the Urban Renewal Agency’s April 4, 2016 meeting and funding for right-of-way/easement acquisition is included in the FY 16/17 budget.

At an August 15, 2016 work session the City Council, which also serves as the City’s Urban Renewal Agency, reviewed a draft of the Memorandum of Agreement and revisions were made based upon that discussion. Subsequently, Landwaves, Inc. requested additional changes clarifying some of the terms. A copy of the agreement with their suggested edits is enclosed.

Fiscal Notes: As noted, the budget for the South Beach Urban Renewal District includes funding for right-of-way acquisition.

Alternatives: Move forward with the MOU as drafted, proceed with a modified version of the MOU, forgo the MOU, or as directed by the Agency.

Attachments:

Mark-up copy of the MOU showing Landwaves suggested revisions
Clean copy of the draft MOU and Exhibit Map

DRAFT

August ~~15~~, 22, 2016

Memorandum of Understanding
among
City of Newport, Oregon ("City"),
Newport Urban Renewal Agency ("Agency")
and
Landwaves, Inc. ("Landwaves")

Recitals

- A. The City and Agency have established an overall infrastructure plan for the South Beach area, as depicted in Newport Transportation System Plan, adopted in November 2012 with Ordinance No. 2045 (the "Plan"). All Parties desire to work collaboratively to implement the Plan in a coordinated and equitable fashion. Except where the context otherwise indicates, when used herein the term "Parties" means City, Agency, and Landwaves.
- B. As Landwaves contemplates future development of its industrial zoned South Beach property, and potential certification of said property through the State of Oregon "shovel ready" industrial lands program, it finds that it is desirous to establish some certainty as to the location where SE 50th Street is to be realigned and SE 62nd Street extended, and to place the "as travelled" portion of SE 50th Street, which is currently contained within an easement, into a formal public street right-of-way.
- C. Similarly, the City and Agency are interested in placing the "as travelled" portion of SE 50th Street into a public street right-of-way and in securing rights-of-way to facilitate the future realignment of SE 50th Street and the future extension of SE 62nd Street in accordance with the Plan because it facilitates the establishment of needed industrial development sites and furthers the City's plans to create an alternative north-south route to US 101 that will serve the broader public.
- D. The Parties recognize that care will need to be taken in establishing the location of a realigned SE 50th Street and SE 62nd Street given the sensitive wetlands that exist in the area, and agree that every effort should be made to establish right-of-way alignments that will minimize impacts to these resources once the roads are constructed.
- E. Agency has identified and appropriated funding for acquisition of rights-of-way for the realignment of SE 50th Street and the extension of SE 62nd Street in fiscal year 2016/2017.
- F. An airport lighting array exists at the south end of Landwaves industrial property, in the vicinity of where right-of-way for the extension of SE 62nd Street would tie into the "as travelled" segment of SE 62nd Street. The Parties agree that the array should remain in its existing location with SE 62nd Street being extended underneath the array in the future. City is prepared to

acquire, and Landwaves is willing to grant, an easement over that portion of the array that encroaches onto its property [on terms to be agreed upon by City and Landwaves](#).

- G. This memorandum is limited to those portions of SE 50th Street, including its future realignment, and SE 62nd Street that are on Landwaves property. The Parties understand that rights-of-way from other property owners will be needed to complete the realignment of SE 50th Street and may be needed to construct the SE 62nd Street extension.
- H. Landwaves acknowledges that the execution of this memorandum does not constitute a commitment by Agency or City to obtain additional rights-of-way for the realignment of SE 50th Street or the extension of SE 62nd Street or to construct said streets or that such streets will be constructed within a specific timeframe. The Parties share the goal of determining the appropriate timing for the construction of the street improvements and an equitable distribution of those costs amongst the benefitted owners.

Terms

1. SE 50th Street Property Dedication (Existing Alignment)

- a. City shall prepare a draft right-of-way dedication document for the “as travelled” portion of SE 50th Street to establish an 80-foot wide public road right-of-way where the City currently possesses a utility and access easement to its Water Treatment Plant as described in Book 358 at Page 1086, and modified with Instrument No. 200307325, of the Lincoln County Records.
- b. City will provide Landwaves a copy of the draft right-of-way dedication document for its review and comment. Landwaves and City will collaborate on any revisions needed to the document.
- c. Once the Parties are in agreement with the language contained in the right-of-way dedication document, the dedication instrument will be executed by Landwaves and accepted by the City. City will pay for the recording costs.
- d. City agrees to release its rights to easements now encumbering the land that is to be dedicated as part of the right-of-way dedication document or by separate recorded instrument following its acceptance of the dedication.
- e. The Parties agree that there should be no monetary compensation associated with this right-of-way conveyance.

2. SE 50th Street (Future Alignment) and SE 62nd Street Dedication

- a. Agency will retain a surveyor to prepare a conceptual drawing of an 80-foot wide road right-of-way for the east-west realignment of SE 50th Street and for the extension of SE 62nd Street envisioned in the Plan (ref: Exhibit A). Landwaves will provide City [\(without warranty as to accuracy\)](#) with any survey records or wetland delineation reports in its possession that would inform the preparation of the concept drawing. Agency will provide a copy of the conceptual drawing to Landwaves for its review.

- b. Landwaves shall review the conceptual drawing and provide Agency feedback regarding any changes it would like to see made to the document. Agency and City are amenable to Landwaves naming the north / south segment of the new street right-of-way extending south to SE 62nd Street in accordance with the City's established street naming conventions. The east / west oriented portion of the new right-of-way, where it ties into the as-travelled portion SE 62nd Street, will be known as SE 62nd Street.
- c. Agency and Landwaves will collaborate to determine the best location for the new SE 50th Street and SE 62nd Street alignments. Once the Parties are in agreement with the conceptual alignments, Agency will have the rights-of-way appraised by an MAI designated appraiser, licensed in the State of Oregon. A copy of the appraisal report will be provided to Landwaves for its review, and any comments provided by Landwaves will be shared with the appraiser who may, at their sole discretion, elect to modify the appraisal.
- d. Landwaves agrees to dedicate rights-of-way for the realignment of SE 50th Street and extension of SE 62nd Street to the City for its fair market value. If Landwaves disagrees with the fair market value established by Agency's appraiser then it shall, at its expense, retain an MAI designated appraiser, licensed in the State of Oregon, to perform a separate appraisal with the sales price being the average of the two appraisals.
- e. Once a sales price is established, Agency shall finalize the right-of-way survey and prepare the dedication documents. A copy of the final documents shall be provided to Landwaves for its review and comment. Once Landwaves completes its review and its comments have been addressed, the proposed right-of-way dedications shall be presented to the Agency Board and Newport City Council for approval.
- f. Closing and settlement shall occur after approval by [Landwaves and](#) the Newport City Council at a Title Company designated by Landwaves, and Landwaves shall be responsible for its pro-rated share of the *ad valorem* taxes due as of the date of the closing. [City will be responsible for causing the dedicated area to become exempt from real property taxation.](#)
- g. Agency shall be responsible for all costs attributed to the acquisition of the rights-of-way, unless otherwise specified above.

3. Easement for Industrial Park sign along US 101

- a. City is willing to grant Landwaves an easement over its property at the intersection of SE 50th Street and US 101 so that Landwaves may construct a freestanding pole or monument sign for its industrial properties.
- b. Agency will prepare a draft easement document that it will provide to Landwaves for comment. The location, size, and value of the easement will be determined as part of the process described in Section 2 of this memorandum.
- c. Parties acknowledge that the City property, which is a fee owned strip of land over which SE 50th Street was constructed, is located outside of the city limits and that Landwaves construction of a sign will be subject to approval by Lincoln County.

4. Airport Navigational Array Easement

- a. City will prepare a draft airport navigational array easement and conceptual drawing of the easement area for that portion of the airport approach lighting system situated on Landwaves property and will provide Landwaves a copy of the draft easement documents for its review and comment. The area to be encumbered by the easement is subject to Landwaves' prior approval.
- b. Landwaves and City will collaborate on any revisions needed to the easement documents. It is City's desire that the easement be exclusive and perpetual in nature, but is open to language that would provide for the release of the easement at such time as the lighting array is no longer needed. City further desires that it be given access over Landwaves property to maintain the approach lighting system. If desired by Landwaves, City is open to a provision being included in the easement to allow the lighting array to be relocated, at Landwaves expense, subject to Federal Aviation Administration approval.
- c. Once the Parties are in agreement with the language contained in the easement document, the City will have the easement appraised by an MAI designated appraiser, licensed in the State of Oregon. A copy of the appraisal report will be provided to Landwaves for its review, and any comments provided by Landwaves will be shared with the appraiser who may, at their sole discretion, elect to modify the appraisal.
- ~~d.~~ d. Landwaves agrees to dedicate the airport navigational array easement to the City for its fair market value in accordance with terms and using a form acceptable to Landwaves. If Landwaves disagrees with the fair market value established by Agency's appraiser then it shall, at its expense, retain an MAI designated appraiser, licensed in the State of Oregon, to perform a separate appraisal with the sales price being the average of the two appraisals.
- ~~e.~~ e. Once a sales price is established, City shall finalize the easement and provide a copy of the final documents to Landwaves for its review and comment. Once Landwaves completes its review and its comments have been addressed, the easement shall be presented to the Newport Airport Advisory Committee and Newport City Council for approval.
- f. Upon execution of the navigational array easement, City will record in the real property records of Lincoln County a document that will terminate the Navigational Aid (I.L.S. Centerline) Easement dated April 14, 1993, which was recorded in Book 279 at Page 2359 and re-recorded in Book 280 at Page 0234, as amended.
- g. Closing and settlement shall occur after approval by Landwaves and by the Newport City Council at a Title Company designated by Landwaves.
- h. City shall be responsible for all costs attributed to the acquisition of the easement, unless otherwise specified above.

5. Other Easements or Rights-of-Way

- a. The Parties understand that the rights-of-way being dedicated pursuant to this memorandum may not be sufficient to contain the full extent of development required to construct the streets given existing terrain and wetland constraints. Should this occur, the parties agree to work collaboratively to modify the right-of-way or put in place temporary or permanent easements over areas proposed for street or related development at such time as the extent of the construction is known. Such changes to the location of the right-of-way or the dedication of easements would be negotiated separate from this memorandum.
- b. Landwaves ~~is interested, and the City is willing to entertain, the creation of~~ City will work together in good faith to create a public access easement over ~~city~~ City owned property east of its wastewater treatment facility to provide alternative access to Landwaves industrial properties. Landwaves agrees to take the lead in developing a conceptual alignment for such an easement and its specific location, size and value would be negotiated separate from this memorandum. Landwaves will pay for and provide the surveying work and legal description for the easement area.

6. Schedule

- a. The Parties will work in good faith to complete their respective responsibilities under this Memorandum of Understanding (MOU) so that the rights-of-way and ~~easement~~ easements are in place by June 30, 2017.

7. Slope

City will stabilize the hillside above the right-of-way on the western boundary of the waste water treatment plant to avoid any landslide onto Landwaves' property to the extent a slide area requiring stabilization exists.

8. Non-Binding MOU

- a. It is the intent of the Parties to work together in good faith to implement the terms of this MOU such that the rights-of-way and ~~airport navigational array easement~~ easements can be established in an efficient and equitable manner. However, this memorandum is non-binding on the Parties and represents only the intent of the Parties with respect to the subjects herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum on the dates show hereunder, 7.

[Signatures follow on next page.]

Newport Urban Renewal Agency by

Signature: _____

Printed Name/Title:

David Allen, Chair

City of Newport by Newport Urban Renewal Agency by

Signature: _____ Signature: _____

Printed Name/Title: _____ Printed Name/Title:

Sandra Roumagoux, Mayor David Allen, Choir

169 SW Coast Hwy _____ 169 SW Coast Hwy

Newport, Oregon 97365 Newport, Oregon 97365

Date: _____ Date: _____

Landwaves, Inc. by

Signature: _____

Printed Name/Title:

Bonnie Serkin, Chief Operating Officer

P.O. Box 12085

Portland, Oregon 97212

Date: _____

Memorandum of Understanding
among
City of Newport, Oregon (“City”),
Newport Urban Renewal Agency (“Agency”)
and
Landwaves, Inc. (“Landwaves”)

Recitals

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- B. As Landwaves contemplates future development of its industrial zoned South Beach property, and potential certification of said property through the State of Oregon “shovel ready” industrial lands program, it finds that it is desirous to establish some certainty as to the location where SE 50th Street is to be realigned and SE 62nd Street extended, and to place the “as travelled” portion of SE 50th Street, which is currently contained within an easement, into a formal public street right-of-way.
- C. Similarly, the City and Agency are interested in placing the “as travelled” portion of SE 50th Street into a public street right-of-way and in securing rights-of-way to facilitate the future realignment of SE 50th Street and the future extension of SE 62nd Street in accordance with the Plan because it facilitates the establishment of needed industrial development sites and furthers the City’s plans to create an alternative north-south route to US 101 that will serve the broader public.
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Landwaves naming the north / south segment of the new street right-of-way extending south to SE 62nd Street in accordance with the City's established street naming conventions. The east / west oriented portion of the new right-of-way, where it ties into the as-travelled portion SE 62nd Street, will be known as SE 62nd Street.

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- e. Once a sales price is established, Agency shall finalize the right-of-way survey and prepare the dedication documents. A copy of the final documents shall be provided to Landwaves for its review and comment. Once Landwaves completes its review and its comments have been addressed, the proposed right-of-way dedications shall be presented to the Agency Board and Newport City Council for approval.
- f. Closing and settlement shall occur after approval by Landwaves and the Newport City Council at a Title Company designated by Landwaves, and Landwaves shall be responsible for its pro-rated share of the *ad valorem* taxes due as of the date of the closing. City will be responsible for causing the dedicated area to become exempt from real property taxation.
- g. Agency shall be responsible for all costs attributed to the acquisition of the rights-of-way, unless otherwise specified above.

3. Easement for Industrial Park sign along US 101

- a. City is willing to grant Landwaves an easement over its property at the intersection of SE 50th Street and US 101 so that Landwaves may construct a freestanding pole or monument sign for its industrial properties.
- b. Agency will prepare a draft easement document that it will provide to Landwaves for comment. The location, size, and value of the easement will be determined as part of the process described in Section 2 of this memorandum.
- c. Parties acknowledge that the City property, which is a fee owned strip of land over which SE 50th Street was constructed, is located outside of the city limits and that Landwaves construction of a sign will be subject to approval by Lincoln County.

4. Airport Navigational Array Easement

- a. City will prepare a draft airport navigational array easement and conceptual drawing of the easement area for that portion of the airport approach lighting system situated on Landwaves property and will provide Landwaves a copy of the draft easement documents for its review and comment. The area to be encumbered by the easement is subject to Landwaves' prior approval.
- b. Landwaves and City will collaborate on any revisions needed to the easement documents. It is City's desire that the easement be exclusive and perpetual in nature, but is open to language that would provide for the release of the easement at such time as the lighting array is no longer needed. City further desires that it be given access over Landwaves property to maintain the approach lighting system. If desired by Landwaves, City is open to a provision being included in the easement to allow the lighting array to be relocated, at Landwaves expense, subject to Federal Aviation Administration approval.
- c. Once the Parties are in agreement with the language contained in the easement document, the City will have the easement appraised by an MAI designated appraiser, licensed in the State of Oregon. A copy of the appraisal report will be provided to Landwaves for its review, and any comments provided by Landwaves will be shared with the appraiser who may, at their sole discretion, elect to modify the appraisal.
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- e. Once a sales price is established, City shall finalize the easement and provide a copy of the final documents to Landwaves for its review and comment. Once Landwaves completes its review and its comments have been addressed, the easement shall be presented to the Newport Airport Advisory Committee and Newport City Council for approval.
- f. Upon execution of the navigational array easement, City will record in the real property records of Lincoln County a document that will terminate the Navigational Aid (I.L.S. Centerline) Easement dated April 14, 1993, which was recorded in Book 279 at Page 2359 and re-recorded in Book 280 at Page 0234, as amended.
- g. Closing and settlement shall occur after approval by Landwaves and by the Newport City Council at a Title Company designated by Landwaves.
- h. City shall be responsible for all costs attributed to the acquisition of the easement, unless otherwise specified above.

5. Other Easements or Rights-of-Way

- a. The Parties understand that the rights-of-way being dedicated pursuant to this memorandum may not be sufficient to contain the full extent of development required to

construct the streets given existing terrain and wetland constraints. Should this occur, the parties agree to work collaboratively to modify the right-of-way or put in place temporary or permanent easements over areas proposed for street or related development at such time as the extent of the construction is known. Such changes to the location of the right-of-way or the dedication of easements would be negotiated separate from this memorandum.

- b. Landwaves and City will work together in good faith to create a public access easement over City owned property east of its wastewater treatment facility to provide alternative access to Landwaves industrial properties. Landwaves agrees to take the lead in developing a conceptual alignment for such an easement and its specific location, size and value would be negotiated separate from this memorandum. Landwaves will pay for and provide the surveying work and legal description for the easement area.

6. Schedule

- a. The Parties will work in good faith to complete their respective responsibilities under this Memorandum of Understanding (MOU) so that the rights-of-way and easements are in place by June 30, 2017.

7. Slope

City will stabilize the hillside above the right-of-way on the western boundary of the waste water treatment plant to avoid any landslide onto Landwaves' property to the extent a slide area requiring stabilization exists.

8. Non-Binding MOU

- a. It is the intent of the Parties to work together in good faith to implement the terms of this MOU such that the rights-of-way and easements can be established in an efficient and equitable manner. However, this memorandum is non-binding on the Parties and represents only the intent of the Parties with respect to the subjects herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum on the dates show hereunder.

[Signatures follow on next page.]

City of Newport by

Signature: _____

Printed Name/Title:

Sandra Roumagoux, Mayor

169 SW Coast Hwy

Newport, Oregon 97365

Date: _____

Landwaves, Inc. by

Signature: _____

Printed Name/Title:

Bonnie Serkin, Chief Operating Officer

P.O. Box 12085

Portland, Oregon 97212

Date: _____

Newport Urban Renewal Agency by

Signature: _____

Printed Name/Title:

David Allen, Chair

169 SW Coast Hwy

Newport, Oregon 97365

Date: _____

DRAFT



City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 541.574.0629
Fax: 541.574.0644

Exhibit A: Landwaves / City of Newport Memorandum of Understanding

Image Taken July 2013
4-inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR

0 250 500 1,000 Feet



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